IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

OP.No. 9908 of 2002(D)

PETITIONERS:
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1. **C.P.PRABHAKARAN, ASSISTANT ENGINEER (RETIRED), KERALA STATE ELECTRICITY BOARD, 66 K.V.SUB STATION, KUTHUPRAMBA,KANNUR DISTRICT.**

2. **E.MANOHARAN,SUB ENGINEER (HG),K.S.E.B., KUTTIADI GENERATION DIVISION,KAKKAYAM.**

BY ADV. SRI.P.M.PAREETH

RESPONDENTS:
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1. **KERALA STATE ELECTRICITY BOARD, REPRESENTED BY ITS SECRETARY,VIDYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM.**

2. **CHIEF INTERNAL AUDITOR,KERALA STATE ELECTRICITY BOARD, VIDYUTHI BHAVANAM,PATTOM, THIRUVANANTHAPURAM.**

3. **ASSISTANT ACCOUNTS OFFICER (PAY FIXATION), KERALA STATE ELECTRICITY BOARD, VIDYUTHI BHAVANAM, PATTOM,THIRUVANANTHAPURAM.**

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB
SRI.T.G.RAJENDRAN, SC

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 31/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE AUDIT OBJECTION DATED 20.07.1998 IN RESPECT OF THE FIRST PETITIONER ISSUED BY THE THIRD RESPONDENT.

EXT.P2: COPY OF THE AUDIT OBJECTION IN RESPECT OF THE SECOND PETITIONER ISSUED BY THE THIRD RESPONDENT.

EXT.P3: COPY OF THE B.O.No.1551/95 DATED 1.8.1995 ISSUED BY THE FIRST RESPONDENT.

EXT.P4: COPY OF THE REPRESENTATION DATED 21.6.2000 SUBMITTED BY THE FIRST PETITIONER BEFORE THE FIRST RESPONDENT.

EXT.P5: COPY OF THE REPRESENTATION DATED 21.6.2000 SUBMITTED BY THE SECOND PETITIONER BEFORE THE FIRST RESPONDENT.

EXT.P6: COPY OF THE PROCEEDINGS DATED 7.1.2002 NO.LAS I/10364/2000 ISSUED BY THE 1ST RESPONDENT.

TRUE COPY

P.A.TO JUDGE

THOTTATHIL B.RADHAKRISHNAN,J

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O.P.No.9908 of 2002

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Dated this the 31st day of October, 2007

JUDGMENT

Article IV Clause 6 (f) long term settlement dated 25.11.1978 governing the employees of the Kerala State Electricity Board provides that workmen in service as on 31.12.1974 and who had been promoted to higher posts during the period from 01.01.1975 to the date of that settlement will be permitted to exercise options to come over to the revised scale of pay of the next higher post on the date of those promotions and until then they would be under the pre-revised scale. The petitioners had earned a promotion during that crucial period. Therefore, they were entitled to opt for the revised scale in that promoted post. However, the said provision in the long term settlement does not deprive the employees from opting to higher scales as regards the lower posts held by them earlier. For this reason the impugned decision that the petitioners were not entitled to exercise options regarding the lower post does not stand.

2. In the result Ext.P6 is quashed. The pensionary claims of the petitioners would be refixed ignoring Ext.P6 and the audit objection sustained by that decision. Any recovery on the basis of the impugned audit objection and Ext.P6 order shall also be refunded. The retiral benefits of the petitioners shall be refixed on the above basis and all arrears of pay shall be re-determined by reckoning increments which were due on the basis of the options of the petitioners, which stand upheld by this judgment. Consequential monetary benefits shall be made available to the petitioners within an outer limit of two months from the date of receipt of a copy of this judgment.

The original petition is allowed as above.

THOTTATHIL B.RADHAKRISHNAN, JUDGE

dvs